## REMARKS

Claims 1 and 2 are pending in this application. After claim amendments herein, claims 1 and 2 will remain in this application.

In the Office Action dated September 21, 2005, the Examiner acknowledged Applicants' election of Group I (claims 1 and 2) with traverse, but has refused Applicants' request to examine claim 8 along with claims 1 and 2 and has made the restriction final. Accordingly, only claims 1 and 2 were examined in the Office Action.

The Examiner objected to the specification because it does not contain a brief description of the drawings that references all of the individual Figures 1a, 1b, 2a, etc. In response, Applicants' have herein amended the specification such that the Description of the Drawings now describes all the figures in the application.

The Examiner rejected claims 1 and 2 under 35 U.S.C. § 101 as being directed to non-statutory subject matter, because they do not sufficiently distinguish over nucleic acids as they exist naturally by particularly pointing out any non-naturally occurring differences between the claimed products and the naturally occurring products. The Examiner helpfully suggested that the claims be amended to indicate the hand of the inventor as taught in the disclosure on page 4, last paragraph and on page 15, first two paragraphs. In response, Applicants have amended claims 1 and 2 to specify that the claimed RNA and DNA have been isolated. Applicants request that the Examiner withdraw this rejection.

The Examiner also rejected claims 1 and 2 under 35 U.S.C. § 102(a) as being anticipated by the Japanese Journal of Tropical Agriculture, Vol. 45, Extra Issue 1, March 30/31, 2001, pages 93-94 (provided in the IDS submitted July 30, 2002) or the Japanese International Research Center for Agricultural Services (JIRCAS) Newsletter, No. 29, December 2001, page 5 (provided in the IDS submitted July 30, 2002). According to the Examiner, even though this application claims priority to February 16, 2001 based upon Japan Patent Application No. 40523/2001, filed February 16, 2001, the claim to priority of February 16, 2001 cannot be determined because an English translation of the priority document was not provided, such that

the references listed on the IDS are available as intervening prior art until the priority claim is perfected. According to the Examiner, either reference anticipates the complete nucleotide sequence of papaya leaf-distortion mosaic virus, since, although neither reference teaches the genomic sequence of the virus, SEQ ID NO: 1 is an inherent feature of the virus genome.

In response, Applicants herewith submit a certified English language translation of Japanese Patent Application No. 40523/2001, filed February 16, 2001, which is the priority application of the instant patent application. Applicants note that the invention of claims 1 and 2 was disclosed in the priority application. By submission of this English translation of the priority document, priority to February 16, 2001 is established, and the references cited by the Examiner in the §102(a) rejection may not be considered prior art to the present application. Accordingly, Applicants respectfully request that the Examiner withdraw this rejection.

In addition, the Examiner rejected claims 1 and 2 under 35 U.S.C. § 102(b) as being anticipated by sequence alignment of SEQ ID NO: 1 with Genseq database accession no: AB088221 of Maoka et al., Nucleotide Sequence of the Capsid Protein Gene of Papaya Leaf-Distortion Mosaic Potyvirus, Archives of Virology, Vol. 141, No. 1: pp. 197-204 (1996). According to the Examiner, although Maoka et al., do not disclose the entire sequence of the genomic viral RNA isolated, the claimed SEQ ID NO: 1 sequence is an inherent feature of the isolated RNA of Maoka et al. since the 3' terminal and capsid gene sequences have perfect alignment with the instant SEQ ID NO: 1. Applicants traverse the Examiner's rejection.

The Examiner alleges that Maoka et al. teach isolating viral RNA from virus particles and making cDNA from the RNA. However, contrary to the Examiner's assertion, the viral RNA is not isolated in the experiment discussed in Maoka et al. In fact, as described in the Maoka et al., page 198, from the 8$^{th}$ line from the bottom to page 199, line 3, the suspension of virus comprises a large amount of plant-derived DNAs. Therefore, it is assumed that the suspension also comprises plant-derived RNAs. The plant-derived DNAs are removed by the treatment with DNase I. However, no treatment for removing the plant-derived RNAs was conducted. Therefore, it is clear that cloning is carried out in Maoka et al. using the mixture comprising the

plant-derived RNAs and the viral genome RNA, and the DNAs derived from viral genome RNA are selected from a mixture of cDNAs derived from the plant and the virus.

In addition, Maoka et al. state, on page 199, at the first sentence of the last paragraph, "Agarose gel electrophoresis of PLDMV RNA after purification by affinity chromatography on oligo (dT)-cellulose gave a single band of RNA of about 10kb." However, Applicants point out that highly-pure viral genome RNA cannot be obtained by the method described in the reference. In fact, RNAs having polyA-tale, which is absorbed to oligo (dT) cellulose, contain the plant-derived RNAs which cannot be removed by previous purification procedures, as well as a viral genome RNA. Thus, it is not until the genomic sequence of the virus is identified that highly-pure viral genome RNA can be obtained.

Accordingly, Applicants contend that the claimed SEQ ID NO: 1 is not an inherent feature of the "isolated" RNA of Maoka et al., such that claims 1 and 2 cannot be anticipated Applicants respectfully request that the Examiner withdraw her rejection.

**Conclusion**

Reconsideration of the present application, as amended, is requested. If, upon review, the Examiner is unable to issue an immediate Notice of Allowance, the Examiner is respectfully requested to telephone Applicant's undersigned attorney in order to resolve any outstanding issues and advance the prosecution of the case. An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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